

Office of Personnel Management

§ 792.225

(f) A child to whose support the Federal employee who is a parent or legal guardian makes regular and substantial contributions.

§ 792.216 What children are eligible for this subsidy?

The law covers the children of Federal employees, excluding contract employees, from birth through age 13 and disabled children through age 18.

§ 792.217 What is a disabled child?

For the purposes of this subpart a disabled child is defined as one who is unable to care for himself or herself based on a physical or mental incapacity as determined by a physician or licensed or certified psychologist.

§ 792.218 Are children enrolled in summer programs and part-time programs eligible?

Yes, Federal employees with children (birth through age 13 and disabled children through age 18) who are enrolled in summer care programs and part-time programs are eligible.

§ 792.219 Are part-time Federal employees eligible?

Yes, Federal employees who work part-time are eligible.

§ 792.220 Does the law apply only to on-site Federal child care centers that are utilized by Federal families?

No, the bill is broad in scope and includes non-Federal center-based child care as well as care in family child care homes, as long as they are licensed and/or regulated by the State and/or local regulating authorities.

§ 792.221 What is the process for helping lower income employees with child care tuition?

OPM guidance includes further explanation, but the process for the tuition assistance program can be summarized in 8 steps:

(a) After completing your collective bargaining obligations, where applicable, notify the Congressional committees (see § 792.203) and OPM of your decision to use a specific amount of appropriated funds for this purpose;

(b) Determine how you will structure the program and which tuition assistance model you will use;

(c) Determine how you will administer the program;

(d) Advertise the program;

(e) Conduct the application process;

(f) Make the tuition assistance determinations and notify the employees (parents are then charged a reduced tuition rate by the provider);

(g) Provide the funds to the provider or to an organization that will administer the program for you; and

(h) Report the results to OPM on the mandatory reporting form.

§ 792.222 Are agencies required to negotiate with their Federal labor organizations about the provisions of this law?

You are reminded of your obligation to negotiate or consult, as appropriate, with the exclusive representatives of your employees on the implementation of the regulations in this subpart under 5 U.S.C. 7117.

§ 792.223 Are there any conditions which the child care provider must meet in order to participate in this program?

Yes, the provider, whether center-based or family child care, must be licensed and/or regulated by the State and/or local authorities where the child care service is delivered.

§ 792.224 Is there a statutory cap on the amount or the percentage of child care tuition that will be subsidized?

No, the law does not specify a cap.

§ 792.225 What is the definition of a lower income Federal employee and how is the amount of tuition assistance subsidy determined?

Each agency makes the determination of the definition of *lower income* Federal employee. *Lower income* Federal employee can be defined by an agency in a number of ways. The process for determining both eligibility and the amount of tuition assistance subsidy for each family will usually involve consideration of total family income along with other factors such as total child care costs, depending on the tuition assistance model(s) you use.

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Agencies are not required to use one of the models that OPM suggests. If an agency uses a model OPM has suggested in its guidance, you may wish to change the threshold amounts, or percentages of total family income or other factors. In their guidance to this subpart, OPM will provide examples of models with detailed explanations. OPM's guidance on this subpart is a supplement to this subpart.

(a) If the model or models you select includes a total family income threshold, you can use criteria such as those from:

(1) The Child Care Development Block Grant as defined (42 U.S.C. 9858);

(2) A formula based on a percentage of the State poverty level (as many States do for certain programs); or

(3) A set amount of total family income the agency chooses depending on the agency demographics and need to assist lower income Federal employees.

(b) Some models do not require a threshold amount, since eligibility is determined as a function of the relationship between total family income, actual child care tuition costs, and an amount or percentage the agency is willing to pay.

(c) In order to determine the amount of tuition assistance subsidy by which tuition will be reduced for a Federal employee, a number of approaches can be taken. The size of the subsidy is dependent on different income levels. It can be based on a tuition sliding scale such as that used in the military formula (10 U.S.C. 1791–1798); a formula based on a specific percentage of total family income the family is expected to pay with the agency paying the remaining amount; or a formula based on a specific percentage of child care tuition the family is expected to pay with the agency paying the remaining amount. Each of these approaches is based on different philosophical assumptions and it will be up to the agency to determine which model or models best fits its needs. The models are described in detail in OPM's guidance.

(d) Besides total family income, you may consider extraordinary financial situations to determine eligibility and the subsidy amount.

§ 792.226 Who determines if a Federal employee qualifies as a lower income employee and how is the program administered?

The agency or another appropriately identified organization determines eligibility using certain income and/or tuition criteria chosen by the agency. If the agency itself does not administer the program, it must select another organization to do so, using procedures that are in accordance with the Federal Acquisition Regulations. Regardless of what organization administers the program, the model for determining both the tuition assistance eligibility and the amount of the subsidy is always determined by the Federal agency.

§ 792.227 Are child care subsidies paid to the Federal employee using the child care?

No, the child care subsidy is paid to the child care provider. If you choose to have an organization administer your program (see § 792.226), the subsidy is paid to the organization and they, in turn, pay the provider. In any case, the provider will invoice the organization that administers the program.

§ 792.228 May we disburse funds to a child care provider or to an organization that administers our program prior to the time the employee receiving tuition assistance has enrolled his or her child in the child care center or family child care home?

Yes, you may wish to disburse one lump sum to the organization administering the tuition assistance program and they will be responsible for tracking the utilization and providing you with regular reports. An agency contract should specify that any unexpended funds shall be returned to the agency after contract completion.

§ 792.229 How will the disbursement covered by § 792.227 work where there is a Federally sponsored child care center in a multi-tenant building?

In a multi-tenant building, funds from the agencies could be pooled together for the benefit of the employees qualified for tuition assistance.